

Serial No. 10/521,538

Atty. Docket No. LeA 35 926

REMARKS

Applicants respectfully request reconsideration and reexamination of the present application in light of the amendments and the remarks below.

Claims 1-4 and 6-12 are pending in this application. Claim 5 was cancelled by Preliminary Amendment (submitted January 14, 2005).

Claims 7 and 9 have been cancelled and claims 1-4, 8, and 10-12 have been amended. These claim amendments and cancellations are made to clarify the subject matter therein. Therefore, these amendments are submitted in order to place the claims in condition for allowance, and do not disclaim any subject matter to which the Applicants are entitled.

Rejection Under 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 1-4 and 6-12 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention (Paper No. 11142005, page 10). Applicants respectfully traverse this rejection.

The Examiner stated that in the claims, it is recited that "A compound... and the salts, solvates, and/or solvates of the salts thereof," which is unclear because it is not clear if "a compound or a salt thereof" is claimed or "a mixture of a compound of a compound and the salt" is claimed..

The claims have been amended as suggested by the Examiner.

The Examiner stated that claim 12 recites "A method claim 4..." and claim 4 is drawn to "A process..."

Claim 12 has been amended and recites "The process..."

It is thus submitted that the claims meet the requirements of 35 USC § 112, second paragraph, and reconsideration and withdrawal of the present rejection is respectfully requested.

Rejection Under 35 U.S.C. § 112, first paragraph

The Examiner rejected claims 1-4 and 6-12 under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for making compounds of formula (I) and the corresponding pharmaceutically acceptable salts, does not reasonably provide enablement for making a solvate of the compound of formula(I) and or solvate of the salt thereof (Paper No. 11142005, pages 2-6). Applicants respectfully traverse this rejection.

To expedite prosecution, claims 1-4 have been amended, and no longer recite solvates.

The Examiner rejected claims 7-11 under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for the treatment of disorders of learning and memory, does not

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reasonably provide enablement for the treatment and/or prophylaxis of central nervous system diseases; a method of treatment and/or prophylaxis of disorders of perception, concentration; a method of prophylaxis of disorders of learning and memory (Paper No. 11142005, pages 6-9). Applicants respectfully traverse this rejection.

To expedite prosecution, claims 7 and 9 have been cancelled. Claims 8, 10, and 11 have been amended and no longer recite prophylaxis and perception and concentration.

It is thus submitted that the claims meet the requirements of 35 USC § 112, first paragraph, and reconsideration and withdrawal of the present rejection is respectfully requested.

CONCLUSION

For the foregoing reasons, Applicants submit that the claims are in condition for allowance and Applicants respectfully request reexamination of the present application, reconsideration and withdrawal of the present rejections and objections, and entry of the amendments. Should there be any further matter requiring consideration, Examiner Rao is invited to contact the undersigned counsel.

If there are any further fees due in connection with the filing of the present reply, please charge the fees to undersigned's Deposit Account No. 13-3372. If a fee is required for an extension of time not accounted for, such an extension is requested and the fee should also be charged to undersigned's deposit account.

Respectfully submitted,

Date: January 17, 2006

Bayer Pharmaceuticals Corporation
400 Morgan Lane
West Haven, CT 06516-4175
Telephone: (203) 812-6450
Facsimile: (203) 812-6459

Susan M. Pellegrino
Susan M. Pellegrino
Attorney for Applicants
Reg. No. 48,972